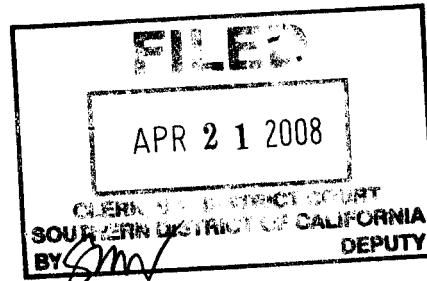


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6 Attorneys for Plaintiff
7 UNITED STATES OF AMERICA

ORIGINAL



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No. 07CR3354-L

Plaintiff,

V.

YVONNE ANN MARTINEZ,

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

Defendant.

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Christina
18 M. McCall, Assistant United States Attorney, and defendant YVONNE ANN MARTINEZ, by and
19 through and with the advice and consent of defense counsel, Robert Rexrode, Esq., that:

20 1. Defendant agrees to execute this stipulation on or before the change-of-plea hearing
21 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
22 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to count 4 of
23 the Indictment charging defendant with a non-mandatory minimum count of Bringing in Illegal
24 Aliens Without Presentation, in violation of 8 U.S.C. § 1324(a)(2)(B)(ii) and 18 U.S.C. § 2.

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 2 provide the signed, original plea agreement to the Government prior to the disposition date set by
 3 the Court.

4 3. The material witnesses, Guadalupe Cid-Escalante and Maria Juarez-Ceron, in this
 5 case:

6 a. Are aliens with no lawful right to enter or remain in the United States;
 7 b. Entered or attempted to enter the United States illegally on or about
 8 November 16, 2007;

9 d. Were each paying, or having others pay on their behalf, money to defendant
 10 or others to be brought into the United States illegally and/or transported illegally to their destination
 11 therein; and,

12 e. May be released and remanded immediately to the Department of Homeland
 13 Security for return to their country of origin.

14 4. After the material witnesses are ordered released by the Court pursuant to this
 15 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
 16 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
 17 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

18 a. The stipulated facts set forth above shall be admitted as substantive evidence;
 19 b. The United States may elicit hearsay testimony from arresting agents
 20 regarding any statements made by the material witness(es) provided in discovery, and such testimony
 21 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
 22 of (an) unavailable witness(es); and,

23 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 24 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
 25 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
 26 waives the right to confront and cross-examine the material witness(es) in this case.

27 5. By signing this stipulation and joint motion, defendant certifies that defendant has

1 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
2 further that defendant has discussed the terms of this stipulation and joint motion with defense
3 counsel and fully understands its meaning and effect.

4 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
5 immediate release and remand of the above-named material witness(es) to the Department of
6 Homeland Security for return to their country of origin.

7 It is STIPULATED AND AGREED this date.

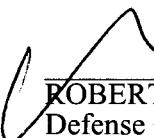
8 Respectfully submitted,

9 KAREN P. HEWITT
10 United States Attorney

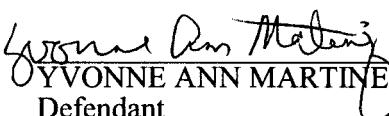
11 Dated: 4-21-08.


12 CHRISTINA M. McCALL
13 Assistant United States Attorney

14 Dated: 4/20/08.


15 ROBERT REXRODE
16 Defense Counsel for Yvonne Ann Martinez

17 Dated: 4/20/08.


18 YVONNE ANN MARTINEZ
19 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: April 21, 2008

M. James Forey
United States Magistrate Judge
DISTRICT COURT

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28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Yvonne Ann Martinez